

## Remarks

### **1. Status of the Claims**

Presently pending are claims 1-23, of which claims 1, 11, and 17 are independent and the remainder are dependent.

### **2. Summary of Office Action**

In the office action mailed May 11, 2007, the Examiner rejected claim 1 under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,664,009 (Hurst). Further, the Examiner rejected claims 2-23 under 35 U.S.C. § 103(a) as being allegedly obvious over U.S. Patent Application Pub. No. 2002/0122541 (Metcalf) in view of Hurst.

### **3. Response to Rejections**

#### **a. Claims 1-10**

Under M.P.E.P. § 2131, in order for a reference to anticipate a claim, the reference must teach (expressly or inherently) every element set forth in the claim. Applicant submits that the § 102 rejection of claim 1 is clearly improper and should be withdrawn, because the cited Hurst reference clearly fails to teach the invention recited.

Claim 1 recites "A voice command platform programmed to receive a call from a user, to answer the call, and to send to the user a speech signal representing a consolidated summary of counts of messages waiting for the user at a plurality of message portals." Applicant has reviewed the relatively short Hurst reference and has found no disclosure of this claimed invention.

In rejecting claim 1, the Examiner asserted that Hurst teaches at column 4, lines 39-48 the claim feature of the voice command platform programmed to send to the user a speech signal representing a consolidated summary of counts of messages waiting for the user at a plurality of

message portals." (The Examiner omitted the language "send to the user," but Applicant assumes the Examiner meant to include that language.) A review of that portion of Hurst, however, reveals that the portion states nothing at all about this claim feature. In fact, that portion of Hurst states in its entirety:

The subscriber initiates the process by placing a call to the telecommunication network per block 300. Block 302 shows that the telecommunication network connects the subscriber's call to the appropriate telecommunication host system. This connection decision is based on the geographic location of the subscriber relative to the telecommunication host system.

Clearly, this portion of Hurst does not state anything about a voice command platform sending to a user a speech signal that represents a consolidated summary of counts of messages waiting for the user at a plurality of message portals. Furthermore, Applicant submits that no other portion of Hurst discloses this feature either.

Applicant wonders if the Examiner may have misread Hurst, where Hurst noted that multiple telecommunication communication systems could learn of the voice mailbox message count that Hurst describes. That disclosure in Hurst, like the rest of Hurst, does not involve a voice command platform providing a consolidated summary of counts of messages waiting for a user at a plurality of message portals. Rather, Hurst teaches that a user calls and gets connected to a given telecommunications host system, and the system then merely tells the user how many messages are in the user's voice mail box. There is no disclosure or suggestion of having the system provide the user with a consolidated summary of counts of messages waiting for the user at a plurality of message portals.

Because Hurst fails to disclose the invention recited by claim 1, Hurst does not anticipate claim 1. Therefore, Applicant submits that claim 1 is allowable. Furthermore, without

conceding the Examiner's other assertions, Applicant submits that dependent claims 2-10 are also allowable for at least the reason that they depend from allowable claim 1.

**b. Claims 2-23**

Under M.P.E.P. § 2143, in order for a combination of references to render a claimed invention obvious, the combination must disclose or suggest all of the limitations of the claim, and the Examiner must provide objective evidence that supports the proposed combination or modification of the references. *See* M.P.E.P. § 2143; *In re Royka*, 490 F.2d 981 (CCPA 1974); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988) (explaining that an Examiner can only meet the burden of establishing a *prima facie* case of obviousness "by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art [that] would lead that individual to combine the relevant teachings of the references"); *In re Lee*, 277 F.3d 1338, 1342-43 (Fed. Cir. 2002) (stating that rejections under 103 must be based on evidence).

In this case, the Examiner has admitted that the primary Metcalf reference fails to disclose a speech signal representing a consolidated summary of counts of messages waiting for the user at a plurality of message portals. (*See* office action, at page 3, lines 4-5.) This element is recited in various ways in independent claims 1 and 17, and now in amended independent claim 11.

Given the clear deficiency of Metcalf, the Examiner then cited Hurst and stated that "Hurst teaches an indication of the counts of messages waiting for the user at the plurality of message portals," again citing column 4, lines 39-48, of Hurst. As noted above, however, this portion of Hurst, like the remainder of Hurst, fails to disclose a voice command platform programmed to send to the user a speech signal representing a consolidated summary of counts of messages waiting for the user at a plurality of message portals. Furthermore, contrary to the

Examiner's indication, this portion and the remainder of Hurst fails to disclose an indication of the counts of messages waiting for the user at the plurality of message portals. Thus, Hurst does not make up for the admitted deficiency of Metcalf.

Because the combination of Metcalf and Hurst does not amount to Applicant's claimed invention, and because the Examiner has not pointed to any objective evidence suggesting Applicant's invention, the Examiner has not established *prima facie* obviousness of claims 2-23. Consequently, Applicant submits that claims 2-23 are allowable.

**c. Conclusion**

In view of the foregoing, Applicant submits that all of the claims are allowable. Therefore, Applicant respectfully requests favorable reconsideration and allowance of the claims.

Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-2141.

Respectfully submitted,

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